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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 171128999-8625-01]

RIN 0648-BH43

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Permit Renewal Applications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to make administrative revisions to the renewal process for Federal vessel permits, licenses, and endorsements, and dealer permits (hereafter referred to collectively as permits) in the NMFS Southeast Region. This proposed rule would remove the regulatory requirement that NMFS must mail a renewal application to a permit holder (vessel or dealer) whose Federal permit is expiring. NMFS will continue to provide notice of the upcoming expiration date to the permit holder. This proposed rule would also remove the regulatory requirement that NMFS must notify an applicant of any deficiency in a renewal application only

through sending a letter via traditional mail, such as through the U.S. Postal Service, which would allow NMFS expanded options for notifying permit holders. The purpose of this proposed rule is to reduce the administrative costs and burden to NMFS of renewing Federal permits, while still maintaining the needed information and services to the public.

DATES: Written comments must be received by August 31, 2018.

ADDRESSES: You may submit comments on the proposed rule identified by "NOAA-NMFS-2018-0064" by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0064, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit all written comments to Sarah Stephenson, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end

of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirement contained in this proposed rule may be submitted to Adam Bailey, NMFS Southeast Regional Office (see mailing address above), by email to *OIRA_Submission@omb.eop.gov*, or by fax to 202-395-5806.

FOR FURTHER INFORMATION CONTACT: Sarah Stephenson, NMFS Southeast Regional Office, telephone: 727-824-5305, email: *sarah.stephenson@noaa.gov*.

SUPPLEMENTARY INFORMATION: In the U.S. southeast region, NMFS and regional fishery management councils manage fisheries in Federal waters under the under the authority

of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and through regulations implemented by NMFS at 50 CFR part 622.

Background

NMFS issues permits, licenses, or endorsements to vessel owners and seafood dealers for species managed under multiple fishery management plans (FMPs) developed by Gulf of Mexico (Gulf) and South Atlantic Fishery Management Councils. These permits are valid for 1 year from the date of issuance by NMFS. Current regulations require the Regional Administrator (RA) for the NMFS Southeast Region to mail a paper renewal application with instructions to a permit holder whose Federal permit is expiring approximately 2 months prior to the expiration date (50 CFR 622.4(g)(1)).

This requirement creates an administrative cost and time burden on NMFS, and other more efficient methods to obtain an application exist. The vessel permit application form with instructions totals nine pages, double sided, and the dealer permit application form with instructions totals five pages, double sided. Each of the application renewals incurs unnecessary labor and material costs for the

printing and mailing of the renewal forms. In 2017, a total of 5,269 permit holders were estimated to collectively hold 18,188 permits that must be renewed annually. Depending on the renewal application package required, the corresponding number of pages mailed by the Southeast Permits Office each year for these renewals is between 26,345 and 47,421 pages.

Additionally, the current regulation for permit renewals requires NMFS to notify an applicant of any deficiency in a renewal application by a letter, which NMFS sends through traditional mail (50 CFR 622.4(g)(1)). In 2017, the NMFS Southeast Permits Office received approximately 8,060 separate applications for vessel permits, licenses, or endorsements, and dealer permits, of which NMFS subsequently mailed letters to 4,305 applicants (53 percent) to address application deficiencies. These notifications also incur unnecessary labor and material costs for the printing and mailing of these letters.

Management Measures Contained in this Proposed Rule

This proposed rule would remove the requirement that the RA mail a renewal application to a permit holder whose Federal permit is expiring. Instead, the RA would notify the permit holder approximately 2 months prior to the

expiration date of the permit through a letter, email, or other appropriate means that may be available. NMFS would continue to mail applications upon request from an applicant, and applications to renew a Federal vessel permit, license, or endorsement, and dealer permit are currently available for download from the NMFS Southeast Permits Office website at

http://sero.nmfs.noaa.gov/operations_management_information_services/constituency_services_branch/permits/index.html.

NMFS is also continuing to expand the number of applications that applicants can submit online. As of July 1, 2018, applicants can access and submit applications online to renew 13 permits.

This proposed rule would also remove the requirement that the RA notify an applicant of any deficiency in a renewal application only by a letter sent through traditional mail.

NMFS expects this proposed rule to reduce administrative labor and material costs associated with mailing permit renewal applications and letters of application deficiency to permit holders by allowing NMFS the flexibility to use more efficient means to provide the

permit renewal applications and notifications of application deficiency.

NMFS does not expect this proposed rule to affect the overall number of annual permit renewals that NMFS receives or change the average time necessary for an applicant to complete an application. This proposed rule would not result in any change to fisheries operations.

Additional Change not Contained in this Proposed Rule

Although not a regulatory requirement, NMFS has historically mailed renewal applications for Federal operator cards to vessel operators prior to the expiration date. If NMFS implements this proposed rule, a renewal application would not automatically be mailed to individuals with an operator card prior to the expiration date; however, similar to the notification of permit holders with Federal permits discussed in this proposed rule, NMFS intends to continue providing notification to a vessel operator with an operator card of its upcoming expiration prior to that date. Additionally, NMFS may use methods other than by letter to notify applicants that a renewal application contains deficiencies.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the applicable FMPs in the Gulf and South Atlantic, the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this proposed rule and its purpose and need are contained in the **SUMMARY** section of the preamble.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows.

This proposed rule would directly apply to businesses that operate in the commercial fishing (NAICS code 11411), charter vessel and headboat (for-hire) fishing (NAICS code 487210), and fish and seafood market industries (NAICS code

445220) that are required to renew permits, licenses, and endorsements to continue to participate in fisheries managed by the Gulf of Mexico and South Atlantic Fishery Management Councils.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing. A business primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The SBA's annual revenue threshold for a business involved in either the for-hire fishing, or fish and seafood marketing industry is \$7.5 million. It is initially expected that almost all to all of the businesses directly affected by this action are small.

In 2017, 5,269 unique entities were estimated to collectively hold 18,188 permits, licenses, or endorsements that must be renewed annually, and these unique entities are expected to represent up to 5,269 unique small businesses.

The proposed rule would eliminate the requirement that the RA print and mail renewal applications to every applicable permit, license, or endorsement holder every year. Instead, the RA would notify small businesses whose permits are expiring and instruct them of the various alternative methods of acquiring the renewal application, which are: submit an electronic application form online, if available; download and print an application form; call the NMFS Southeast Permits Office toll-free number and request an application form by mail; or acquire an application form in person from the NMFS Southeast Permits Office.

Currently, all small businesses can acquire a paper renewal application by either waiting for the application in the mail, downloading and printing one, or coming to the Permits Office. An increasing number of applicants can access and submit an electronic renewal application online, but this service is not available for all applicants because not all renewal applications can be submitted online at this time. As of July 1, 2018, applicants can access and submit applications online to renew 13 permits (of the 27 permits issued under the FMPs), and NMFS is working to increase the number of permits that can be

renewed in this manner.

This action would have no impact on any small businesses that currently submit an online application to renew their permit, download and print an application, or get an application in-person from the Permits Office. However, it would have impacts on those small businesses that currently rely on or otherwise use the application automatically mailed to them.

NMFS expects that this proposed rule would divide those latter small businesses into four subgroups depending on which option to obtain an application they prefer and are able to choose. The number of small businesses that would choose any particular option is unknown. All options would require the same average amount of time to complete an application.

As NMFS continues to expand the number of permit applications that are available to submit online, small businesses that presently cannot submit their permit renewal applications online would receive multiple direct and indirect benefits. These include the convenience and efficiency of accessing and submitting an application online, eliminating the cost of mailing a completed paper

application (estimated to be, on average, \$0.91 per application annually), and a small business' ability to pay the renewal fee(s) by either credit card or electronic check via *Pay.gov* accessed through the Southeast Fisheries Online Permit System, rather than by check or money order. Benefits of paying electronically include, but are not restricted to, higher transaction speed, reduced check-associated costs, and greater transaction transparency.

The existing option to download and print out a paper application would have added benefits and costs to those who currently do not choose this option. These include the flexibility to acquire the application at their convenience and the additional direct cost of downloading and printing each application form (expected to vary from \$1 to \$10). This option would not change baseline mailing costs (\$0.91) or payment options. Payment submitted with paper applications must be made by either check or money order.

The proposed rule would also give small businesses the option to call the NMFS Southeast Permits Office toll-free to request that NMFS mail a paper application to them. This would require a small business to take the time to call NMFS to request the application be mailed. This option is

essentially a no-action alternative; there would be no change in baseline mailing costs or payment options to small businesses for each application.

A fourth option would be for an applicant to travel to the NMFS Southeast Permits Office in St. Petersburg, Florida, to obtain an application. However, NMFS expects that most small businesses would not select this option because of time and travel costs.

The added cost to acquire an application by telephone request, download, online access and submission, or traveling to the Permits Office is expected to be minimal. In conclusion, NMFS expects this proposed rule would not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB) under control number 0648-0205. Public reporting burden for renewal applications in the Southeast Region Permit Family of Forms is estimated to vary between 30 and 55 minutes, depending on the applicable form. The

estimated reporting burdens are based on an individual response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This proposed rule would not change existing collection-of-information requirements or estimated reporting burdens. Send comments regarding the burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden to Adam Bailey, NMFS Southeast Regional Office (see **ADDRESSES**), by email to *OIRA_Submission@omb.eop.gov*, or fax to 202-395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, and no person will be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved collections of information may be viewed at http://www.cio.noaa.gov/services_programs/prasubs.html.

List of Subjects in 50 CFR Part 622

Commercial, Dealer, Endorsement, Fisheries, Fishing,

Gulf of Mexico, License, Permit, South Atlantic.

Dated: July 27, 2018.

Samuel D. Rauch, III,
Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part
622 is proposed to be amended as follows:

**PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND
SOUTH ATLANTIC**

1. The authority citation for part 622 continues to
read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.4, revise paragraph (g)(1) to read as
follows:

§ 622.4 Permits and fees--general.

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(g) * * *

(1) *Vessel permits, licenses, and endorsements, and dealer permits.* Unless specified otherwise, a vessel or dealer permit holder who has been issued a permit, license, or endorsement under this part must renew such permit, license, or endorsement on an annual basis. The RA will notify a vessel or dealer permit holder whose permit, license, or endorsement is expiring approximately 2 months prior to the expiration date. A vessel or dealer permit holder who does not receive a notification is still required to submit an application form as specified below. The applicant must submit a completed renewal application form and all required supporting documents to the RA prior to the applicable deadline for renewal of the permit, license, or endorsement, and at least 30 calendar days prior to the date on which the applicant desires to have the permit made effective. Application forms and instructions for renewal are available online at *sero.nmfs.noaa.gov* or from the RA (Southeast Permits Office) at 1-877-376-4877, Monday through Friday between 8

a.m. and 4:30 p.m., eastern time. If the RA receives an incomplete application, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 calendar days of the notification date by the RA, the application will be considered abandoned. A permit, license, or endorsement that is not renewed within the applicable deadline will not be reissued.

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